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TAGS: [PGOV](#) [PREL](#) [KDEM](#) [PHUM](#) [PINR](#) [ENVR](#) [ASEC](#) [BL](#)
SUBJECT: MAS TRIES TO STACK THE DECK FOR DECEMBER ELECTIONS

Classified By: A/EcoPol Chief Brian Quigley for reasons 1.4 (b, d)

11. (C) Summary: The new Bolivian constitution requires Congressional passage by April 7 of a "transitional regime" to establish the rules for the December 6 election of the president, vice president, and members of the new "Plurinational Assembly." Under threat of a 10,000-person siege by social groups affiliated with the Morales administration, the Bolivian Senate will vote soon on draft legislation. The proposed Electoral Transition Law (ETL) controls all aspects of the elections, including the number, location, and size of regular Congressional districts, special indigenous districts, voting by Bolivian citizens abroad, division of Senate seats, and the potential establishment of a new electoral roll. In the lower house of Congress, President Morales' ruling Movement Toward Socialism party (MAS) passed a version of the ETL that stacks the deck in their favor, significantly boosting their chances to win a two-thirds majority in the new Plurinational Assembly, and with it the ability to amend the constitution at will. While the Senate is poised to modify the lower house's legislation significantly, whatever it passes will likely be overruled in a meeting of the full Congress, handing the MAS a major victory and giving it the potential to perpetuate itself in power for years to come. End summary.

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MAS Stacks the Deck
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12. (SBU) With President Morales promising as part of his regular stump speech that the MAS will win more than 70 percent of the Plurinational Assembly seats in the December 6 elections, pressure is on the MAS to create an Electoral Transition Law (ETL) that adjusts the rules in their favor. The MAS-controlled lower house of Congress has done its part, passing a law that contains at least six features designed to advantage the MAS.

13. (SBU) First, the MAS proposal essentially guarantees that all so-called "indigenous seats" will be MAS seats. The MAS version of the ETL establishes that 14 of the lower house's 130 seats will be set aside for indigenous representation, and mandates that all candidates for these seats be approved by MAS-affiliated social groups CIDOB, CONAMAQ, or CSUTCB

(Confederation of Eastern Bolivian Indigenous Communities, National Council of Allys and Markas of Qullasuyu, and the Unique Confederation of Rural Laborers of Bolivia, respectively). The opposition has complained that this vetting requirement effectively guarantees that MAS candidates will win all 14 seats, and that it arbitrarily denies some citizens living in these areas the right to run for elected office.

14. (SBU) Second, the proposed law would deliver more Senate seats to the MAS. With four Senate seats now at stake in each department (state), calculating how to award seats could mean the difference in who controls the Senate and also help the MAS achieve an overall two-thirds majority in the Plurinational Assembly. The MAS favors the d'Hondt method, which divides seats in approximate proportion to the number of votes won by each party and has a bias toward larger parties. The opposition favors either the Saint Laague method (which favors minority parties) or a simpler formula of two seats to the winner, and one each to the next two parties, assuming the third place party reaches a five percent minimum. Especially in the western departments, by using the d'Hondt method the MAS could win three out of four seats.

15. (SBU) Third, the MAS draft over-represents rural areas and the Altiplano, where the MAS vote is strongest. According to the MAS ETL draft, the three Altiplano departments of La Paz, Oruro, and Potosi receive 52 seats, while the other six combined receive only 78 seats. And while rural areas comprise only one-third of the country's population, they would receive two-thirds of the lower house seats, giving the MAS a clear advantage.

16. (SBU) Fourth, the MAS version of the ETL ignores the ongoing Santa Cruz population boom. By using the 2001 census, the MAS version of the law would ignore the significant growth of Santa Cruz over the last decade (largely due to immigration from the Altiplano). For example, many experts believe Potosi and Oruro departments should lose three seats, which should be awarded to Santa Cruz department, a potential swing of six votes.

17. (SBU) Fifth, the MAS version of the ETL violates the constitution's proportionality requirements. The constitution requires that half of the lower house's 130 seats be elected directly (i.e. one votes for a specific candidate) and half by party list. The MAS has decided to count the indigenous seats as party list seats, even though voters in these districts will be choosing individual candidates, leading to 70 direct vote seats, 46 party list seats, and 14 indigenous seats. In Potosi (a MAS stronghold), the MAS has directly contradicted the constitution by creating eight direct vote seats and only six party list seats (and no indigenous seats). Noting that the lower house's party list seats will also be distributed according to the d'Hondt method, some experts have speculated the MAS carved out the 14 indigenous districts from areas that might not otherwise be fertile MAS territory, leaving the other 46 to be decided by a method (d'Hondt) relatively biased toward larger parties (i.e. the MAS).

18. (SBU) Last, the MAS draft legislation would allow "some" Bolivians living abroad to vote in December. Currently, Bolivians living abroad are not allowed to vote. The MAS proposal would "phase in" such voting, and in the December election would allow only Bolivians living in Argentina to vote. The opposition has charged that Bolivians living in Argentina are more likely to vote for the MAS, while those living in other countries, such as Spain and the U.S., are more likely to vote for the opposition. The proposed ETL would therefore benefit the MAS at the expense of the opposition.

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The Senate Fights Back
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19. (U) In contrast, the Senate version explicitly sets out to

correct the urban/rural imbalance and determine all districts strictly by population, including indigenous districts. The opposition proposal would ask the National Electoral Court (CNE) to draw districts in each department based solely on population, with a minimum of five seats per department. Using this criteria, the CNE would also establish the number of indigenous districts. According to the 2001 census and a Senate committee analysis, minority indigenous groups (i.e. not Aymara or Quechua) make up six percent of the country's population and would merit perhaps four seats. Candidates for indigenous seats also would not require approval from social groups (CIDOB, CONAMAQ, or CSUTCB).

¶10. (U) The Senate draft requires that the CNE completely redo the electoral rolls before the December elections, and requires that the CNE generate a proposal to allow voting by Bolivians outside the country. This proposal would have to be approved by the Congress before it could be activated, and would likely not be approved before the December 6 elections.

Next Step: Full Congress Vote

¶11. (U) The Senate is likely to approve their Constitution Committee's proposal in the next few days. Senate President Oscar Ortiz has said he is "not concerned" with the impending siege by MAS-affiliated social groups and that the Senate is committed to passing a transition law before the deadline. Vice President Alvaro Garcia Linera said March 29 that he also was against any siege and hoped instead that the Senate would "fulfill its duty" by expeditiously passing the transition law.

Comment: Senate Actions Moot?

¶12. (C) Senate President Ortiz confirmed to Emboff that after the Senate passes its version of the Electoral Transition Law, it will be sent to the lower house for review. Given the significant differences between the two drafts, the lower house is not likely to pass the Senate version. Instead, Vice President Garcia Linera will likely convoke the full Congress to vote on a reconciled version of the two drafts. According to Ortiz, any vote by the full Congress would require only a simple majority to pass the legislation. Garcia Linera's opposition to the social groups' siege may exist because he has counted the votes, and knows the MAS can pass whatever text they prefer. While the opposition may be able to modify elements of the MAS proposal, in the end the MAS has 84 out of a total 157 votes, or well more than half. If it comes to a straight party vote, the MAS can impose its will. In doing so, the MAS will have rewritten the "rules of the game" and be much closer toward its goal of a two-thirds majority in the Plurinational Assembly. End comment.

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